

The Employment Law Firm
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Attorney for Plaintiff

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

HEATHER DELHAGEN,	:	CIVIL ACTION – LAW
	:	
Plaintiff,	:	JURY TRIAL DEMANDED
	:	
v.	:	
	:	
KEN MCDOWELL, in his Official	:	
and Individual Capacity,	:	
	:	
Defendant.	:	NO. 08-285

**BRIEF IN SUPPORT OF MOTION TO COMPEL
INSURANCE COMPANY TO DEPOSIT PROCEEDS OF POLICY WITH THE COURT**

BRIEF STATEMENT OF RELEVANT FACTS

Defendants' insurance company has advised that they are in the midst of settling other cases involving the alleged same insurance policy.

QUESTION PRESENTED

I. Since the insurance company admits that funds may be depleted by settlement of some but not all cases against Defendants, the policy proceeds should be deposited into the court for equitable distribution once the merits of each case have been decided?

Suggested Answer: In the Affirmative

DISCUSSION OF THE LAW

Plaintiff's counsel received a letter from the lawyers for Defendants' insurance company advising that the proceeds of the insurance policy, which they believe covers this action, may be depleted by other plaintiffs. It appears that your Honor also presides over those cases. (Docket No. 08-737).

Although no dispositive motions have been decided in those cases as here, it appears that those cases are in the process of being settled. Since there are competing interests for the insurance proceeds, the full policy must be deposited with the Court for fair, equitable distribution.

CONCLUSION

For the foregoing reasons, Plaintiff requests that this Court deny Defendants motion to dismiss, or in the alternative summary judgment, since Hawk timely appealed the final decision of 5/12/09.

By: /s/ Cynthia L. Pollick
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CERTIFICATE OF SERVICE

Cynthia L Pollick, Esquire, hereby certifies that on May 4, 2010, she served a copy of Plaintiff's Brief in Support of Motion to Compel by serving a copy via electronically on Defendants:

Mr. Joel Wolff, Esquire
Elliott Greenleaf Dean
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Scranton, PA 18503

s/ Cynthia L. Pollick
Cynthia L Pollick, Esquire